



**CALIFORNIA BOARD OF ACCOUNTANCY**

2000 EVERGREEN STREET, SUITE 250  
SACRAMENTO, CA 95815-3832  
TELEPHONE: (916) 263-3680  
FACSIMILE: (916) 263-3675  
WEB ADDRESS: <http://www.dca.ca.gov/cba>



# Regulation Notice

*July 2004*

## **Regulation Notice**

### **TITLE 16. CALIFORNIA BOARD OF ACCOUNTANCY**

NOTICE IS HEREBY GIVEN that the California Board of Accountancy is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the Hyatt Regency Hotel, 1209 L Street, in Sacramento, CA 95814 at 2:00 p.m., on September 10, 2004. Written comments, including those sent by mail, facsimile, or email to the addresses listed under Contact Person in this Notice, must be received by the California Board of Accountancy at its office no later than 5:00 p.m. on September 9, 2004, or must be received by the California Board of Accountancy at the hearing. If submitted at the hearing, it is requested, although not required, that 25 copies be made available for distribution to Board members and staff. The California Board of Accountancy, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as the Contact Person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 5010 and 5018 of the Business and Professions Code and to implement, interpret or make specific Section 5018 of the Business and Professions Code, the California Board of Accountancy is considering changes to Division 1 of Title 16 of the California Code of Regulations as follows:

#### **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

Business and Professions Code Section 5010 authorizes the Board to adopt, amend, or repeal such regulations as may be necessary for the orderly administration of the Accountancy Act. Section 5018 authorizes the Board to adopt rules of professional conduct.

Existing Section 54.1 prohibits the disclosure of confidential client information without the client's permission and provides narrow exceptions to this prohibition. This proposal would revise Section 54.1 to require that the client's permission be in writing and to provide that, in the event confidential client information may be disclosed to persons or entities outside of the United States, the licensee inform the client in writing and obtain the client's written permission.

The objective of this proposal is to update Section 54.1 to help ensure that the clients of licensees have the information they need to make informed choices regarding the disclosure of their financial information.

## **FISCAL IMPACT ESTIMATES**

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None.

### Business Impact:

The California Board of Accountancy has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

AND

The following studies were relied upon in making that determination: None.

### Impact on Jobs/New Businesses:

The California Board of Accountancy has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

### Cost Impact on Representative Private Person or Business:

The California Board of Accountancy is not aware of any significant cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

## **EFFECT ON SMALL BUSINESS**

The California Board of Accountancy has determined that the proposed regulation would affect small businesses.

## **CONSIDERATION OF ALTERNATIVES**

The California Board of Accountancy must determine that no reasonable alternative which it considered or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

## **INITIAL STATEMENT OF REASONS AND INFORMATION**

The California Board of Accountancy has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

## **TEXT OF PROPOSAL**

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the California Board of Accountancy at 2000 Evergreen Street, Suite 250, Sacramento, California 95815.

## **AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE**

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons, once it has been prepared, by making a written request to the contact person named below or by accessing the Web site listed below.

## **CONTACT PERSON**

Inquiries or comments concerning the proposed administrative action may be addressed to:

Name: Aronna Granick  
Address: California Board of Accountancy  
2000 Evergreen Street, Suite 250  
Sacramento, CA 95815

Telephone No.: (916) 561-1788  
Fax No.: (916) 263-3675  
Email Address: [agranick@cba.ca.gov](mailto:agranick@cba.ca.gov)

The backup contact person is:

Name: Mary Crocker  
Address: California Board of Accountancy  
2000 Evergreen Street, Suite 250  
Sacramento, CA 95815

Telephone No.: (916) 561-1713  
Fax No.: (916) 263-3675  
Email Address: [mcrocker@cba.ca.gov](mailto:mcrocker@cba.ca.gov)

Inquiries concerning the substance of the proposed regulations may be directed to Aronna Granick at (916) 561-1788.

**Web site Access:** Materials regarding this proposal can be found at [www.dca.ca.gov/cba](http://www.dca.ca.gov/cba).

## TEXT OF PROPOSAL

### 54.1. Disclosure of Confidential Information Prohibited.

(a) No confidential information obtained by a licensee, in his or her professional capacity, concerning a client or a prospective client shall be disclosed by the licensee without the written permission of the client or prospective client, except for the following:

~~(a)~~(1) disclosures made by a licensee in compliance with a subpoena or a summons enforceable by order of a court;

~~(b)~~(2) disclosures made by a licensee regarding a client or prospective client to the extent that the licensee reasonably believes that it is necessary to maintain or defend himself/herself in a legal proceeding initiated by that client or prospective client;

~~(c)~~(3) disclosures made by a licensee in response to an official inquiry from a federal or state government regulatory agency;

~~(d)~~(4) disclosures made by a licensee or a licensee's duly authorized representative to another licensee in connection with a proposed sale or merger of the licensee's professional practice;

~~(e)~~(5) disclosures made by a licensee to (1) another licensee to the extent necessary for purposes of professional consultation and to (2) professional standards review, ethics or quality control peer review organizations;

~~(f)~~(6) disclosures made when specifically required by law.

(b) In the event that confidential client information may be disclosed to persons or entities outside the United States in connection with the services provided, the licensee shall so inform the client in writing and obtain the client's written permission.

NOTE: Authority cited: Sections 5010 and 5018, Business and Professions Code.

Reference: Section 5018, Business and Professions Code.